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July 31, 2008

Hon Judge Shira A. Scheindlin  
U.S. Federal Court, Southern District  
500 Pearl St.  
Brooklyn, NY 10007

Re: Vandermark et al. v. City of New York, et al.  
Index No. 1:08-cv-5332

Dear Hon. Judge Scheindlin:

On 7/28/2008, the Court completed the grant of an extension of time to answer the complaint until September 1, 2008 (Doc. #6). However, on 7/17/08 the Court scheduled an initial conference and directed that the parties must bring a completed scheduling order to a conference scheduled for 8-4-2008 (Doc. #5). Since Defendants are granted the extension of time to answer and to move against the complaint, it would seem proper to delay a conference to complete scheduling of the case until such time as an answer is entered in the case. From a practical point of view, Defendants could move under 12-b-6 to dismiss the complaint and the motion could be pending in the court for several months while the scheduling order would require discovery to proceed without the issues being defined in the case.

I respectfully request that any scheduling conference be set only after an answer to the complaint is filed by all defendants.

I thank the Court in advance for courtesies extended.

Respectfully yours,

Richard Merritt  
Attorney for Plaintiffs